

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

Derrick Polite

Write the full name of each plaintiff.

\_\_\_\_ CV \_\_\_\_  
(Include case number if one has been assigned)

-against-

VIP Community Services  
ATTN: Director of Human Services  
1910 Arthur Ave 4th Floor  
BA, NY 10467

Write the full name of each defendant. If you need more space, please write "see attached" in the space above and attach an additional sheet of paper with the full list of names. The names listed above must be identical to those contained in Section II.

COMPLAINT

Do you want a jury trial?

☒ Yes ☐ No

NOTICE

The public can access electronic court files. For privacy and security reasons, papers filed with the court should therefore *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number. See Federal Rule of Civil Procedure 5.2.

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**I. BASIS FOR JURISDICTION**

Federal courts are courts of limited jurisdiction (limited power). Generally, only two types of cases can be heard in federal court: cases involving a federal question and cases involving diversity of citizenship of the parties. Under 28 U.S.C. § 1331, a case arising under the United States Constitution or federal laws or treaties is a federal question case. Under 28 U.S.C. § 1332, a case in which a citizen of one State sues a citizen of another State or nation, and the amount in controversy is more than \$75,000, is a diversity case. In a diversity case, no defendant may be a citizen of the same State as any plaintiff.

What is the basis for federal-court jurisdiction in your case?

☒ Federal Question

☐ Diversity of Citizenship

**A. If you checked Federal Question**

Which of your federal constitutional or federal statutory rights have been violated?

Title VII - Equal Pay  
Retaliation

**B. If you checked Diversity of Citizenship****1. Citizenship of the parties**

Of what State is each party a citizen?

The plaintiff, \_\_\_\_\_, is a citizen of the State of \_\_\_\_\_  
(Plaintiff's name)

\_\_\_\_\_  
(State in which the person resides and intends to remain.)

or, if not lawfully admitted for permanent residence in the United States, a citizen or subject of the foreign state of \_\_\_\_\_

\_\_\_\_\_  
If more than one plaintiff is named in the complaint, attach additional pages providing information for each additional plaintiff.

If the defendant is an individual:

The defendant, \_\_\_\_\_, is a citizen of the State of \_\_\_\_\_  
(Defendant's name)

or, if not lawfully admitted for permanent residence in the United States, a citizen or subject of the foreign state of \_\_\_\_\_

If the defendant is a corporation:

The defendant, \_\_\_\_\_, is incorporated under the laws of the State of \_\_\_\_\_

and has its principal place of business in the State of \_\_\_\_\_

or is incorporated under the laws of (foreign state) \_\_\_\_\_

and has its principal place of business in \_\_\_\_\_

If more than one defendant is named in the complaint, attach additional pages providing information for each additional defendant.

## II. PARTIES

### A. Plaintiff Information

Provide the following information for each plaintiff named in the complaint. Attach additional pages if needed.

Derrick R Polite Polite  
First Name Middle Initial Last Name

1686 Randall Ave #4E  
Street Address

Bx NY 10473  
County, City State Zip Code

347-280-0505 derrick.polite77@gmail.com  
Telephone Number Email Address (if available)

**B. Defendant Information**

To the best of your ability, provide addresses where each defendant may be served. If the correct information is not provided, it could delay or prevent service of the complaint on the defendant. Make sure that the defendants listed below are the same as those listed in the caption. Attach additional pages if needed.

Defendant 1:

VIP Community Services

First Name

Last Name

Clinical Director

Current Job Title (or other identifying information)

1910 Arthur Ave #4th Floor

Current Work Address (or other address where defendant may be served)

Bk NY 10467

County, City

State

Zip Code

Defendant 2:

First Name

Last Name

Current Job Title (or other identifying information)

Current Work Address (or other address where defendant may be served)

County, City

State

Zip Code

Defendant 3:

First Name

Last Name

Current Job Title (or other identifying information)

Current Work Address (or other address where defendant may be served)

County, City

State

Zip Code

Defendant 4:

First Name

Last Name

Current Job Title (or other identifying information)

Current Work Address (or other address where defendant may be served)

County, City

State

Zip Code

## III. STATEMENT OF CLAIM

Place(s) of occurrence: 1910 Arthur Ave BX NY 10467

Date(s) of occurrence: 8/28/19

## FACTS:

State here briefly the FACTS that support your case. Describe what happened, how you were harmed, and what each defendant personally did or failed to do that harmed you. Attach additional pages if needed.

During my initial complaint I failed to provide the witness to the event which lead VCP to terminate my employment. It was recommended, I submit this claim in efforts to honor the request of my retroactive pay along with my reasons for termination. Lastly, along with the age difference of the previous Clinical Director there was no reason to decrease my pay, especially with both parties having the same credentials. In closing, Under the Ryan White program all parties were paid according to the salary aside from me.

**INJURIES:**

If you were injured as a result of these actions, describe your injuries and what medical treatment, if any, you required and received.

(N/A)

**IV. RELIEF**

State briefly what money damages or other relief you want the court to order.

Based on the Ryan White Contract I should have been coart with all staff members pay. In this case I was not. I disowned this signing into existence the new contract. I requested several times for the increase.

## V. PLAINTIFF'S CERTIFICATION AND WARNINGS

By signing below, I certify to the best of my knowledge, information, and belief that: (1) the complaint is not being presented for an improper purpose (such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation); (2) the claims are supported by existing law or by a nonfrivolous argument to change existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Federal Rule of Civil Procedure 11.

I agree to notify the Clerk's Office in writing of any changes to my mailing address. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Each Plaintiff must sign and date the complaint. Attach additional pages if necessary. If seeking to proceed without prepayment of fees, each plaintiff must also submit an IFP application.

9/15/20  
 Dated  
 Derrick  
 First Name  
 R  
 Middle Initial  
 Derrick Poite  
 Plaintiff's Signature  
 Poite  
 Last Name  
 1686 Randall Ave #4E  
 Street Address  
 BX  
 County, City  
 NY  
 State  
 10473  
 Zip Code  
 347-280-0505  
 Telephone Number  
 derrickpoite77@gmail.com  
 Email Address (if available)  
 derrickpoite77@gmail.com

I have read the Pro Se (Nonprisoner) Consent to Receive Documents Electronically:

☒ Yes ☐ No

If you do consent to receive documents electronically, submit the completed form with your complaint. If you do not consent, please do not attach the form.

EEOC Form 161 (11/16)

## U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

## DISMISSAL AND NOTICE OF RIGHTS

To: **Derrick Polite**  
**1686 Randall Avenue**  
**Apt 4E**  
**Bronx, NY 10473**

From: **New York District Office**  
**33 Whitehall Street**  
**5th Floor**  
**New York, NY 10004**



On behalf of person(s) aggrieved whose identity is  
 CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.

EEOC Representative

Telephone No.

**16G-2019-05263**

**Holly M. Shabazz,**  
**State & Local Program Manager**

**(929) 506-5316**

## THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:



The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.



Your allegations did not involve a disability as defined by the Americans With Disabilities Act.



The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.



Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge



The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.



The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.



Other (briefly state)

## - NOTICE OF SUIT RIGHTS -

(See the additional information attached to this form.)

**Title VII, the Americans with Disabilities Act, the Genetic Information Nondiscrimination Act, or the Age Discrimination in Employment Act:** This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit **must be filed WITHIN 90 DAYS of your receipt of this notice**; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

**Equal Pay Act (EPA):** EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

On behalf of the Commission



**Judy A. Keenan,**  
**District Director**

September 8 2020

(Date Mailed)

Enclosures(s)

cc:

**VIP COMMUNITY SERVICES INC**  
**Attn: Director of Human Resources**  
**1910 Arthur Avenue**  
**4th Floor**  
**Bronx, NY 10457**



**INFORMATION RELATED TO FILING SUIT  
UNDER THE LAWS ENFORCED BY THE EEOC**

*(This information relates to filing suit in Federal or State court under Federal law.  
If you also plan to sue claiming violations of State law, please be aware that time limits and other  
provisions of State law may be shorter or more limited than those described below.)*

**PRIVATE SUIT RIGHTS -- Title VII of the Civil Rights Act, the Americans with Disabilities Act (ADA),  
the Genetic Information Nondiscrimination Act (GINA), or the Age  
Discrimination in Employment Act (ADEA):**

In order to pursue this matter further, you must file a lawsuit against the respondent(s) named in the charge **within 90 days of the date you receive this Notice**. Therefore, you should **keep a record of this date**. Once this 90-day period is over, your right to sue based on the charge referred to in this Notice will be lost. If you intend to consult an attorney, you should do so promptly. Give your attorney a copy of this Notice, and its envelope, and tell him or her the date you received it. Furthermore, in order to avoid any question that you did not act in a timely manner, it is prudent that your suit be filed **within 90 days of the date this Notice was mailed to you** (as indicated where the Notice is signed) or the date of the postmark, if later.

Your lawsuit may be filed in U.S. District Court or a State court of competent jurisdiction. (Usually, the appropriate State court is the general civil trial court.) Whether you file in Federal or State court is a matter for you to decide after talking to your attorney. Filing this Notice is not enough. You must file a "complaint" that contains a short statement of the facts of your case which shows that you are entitled to relief. Courts often require that a copy of your charge must be attached to the complaint you file in court. If so, you should remove your birth date from the charge. Some courts will not accept your complaint where the charge includes a date of birth. Your suit may include any matter alleged in the charge or, to the extent permitted by court decisions, matters like or related to the matters alleged in the charge. Generally, suits are brought in the State where the alleged unlawful practice occurred, but in some cases can be brought where relevant employment records are kept, where the employment would have been, or where the respondent has its main office. If you have simple questions, you usually can get answers from the office of the clerk of the court where you are bringing suit, but do not expect that office to write your complaint or make legal strategy decisions for you.

**PRIVATE SUIT RIGHTS -- Equal Pay Act (EPA):**

EPA suits must be filed in court within 2 years (3 years for willful violations) of the alleged EPA underpayment: back pay due for violations that occurred **more than 2 years (3 years) before you file suit** may not be collectible. For example, if you were underpaid under the EPA for work performed from 7/1/08 to 12/1/08, you should file suit **before 7/1/10 -- not 12/1/10** -- in order to recover unpaid wages due for July 2008. This time limit for filing an EPA suit is separate from the 90-day filing period under Title VII, the ADA, GINA or the ADEA referred to above. Therefore, if you also plan to sue under Title VII, the ADA, GINA or the ADEA, in addition to suing on the EPA claim, suit must be filed within 90 days of this Notice and within the 2- or 3-year EPA back pay recovery period.

**ATTORNEY REPRESENTATION -- Title VII, the ADA or GINA:**

If you cannot afford or have been unable to obtain a lawyer to represent you, the U.S. District Court having jurisdiction in your case may, in limited circumstances, assist you in obtaining a lawyer. Requests for such assistance must be made to the U.S. District Court in the form and manner it requires (you should be prepared to explain in detail your efforts to retain an attorney). Requests should be made well before the end of the 90-day period mentioned above, because such requests do not relieve you of the requirement to bring suit within 90 days.

**ATTORNEY REFERRAL AND EEOC ASSISTANCE -- All Statutes:**

You may contact the EEOC representative shown on your Notice if you need help in finding a lawyer or if you have any questions about your legal rights, including advice on which U.S. District Court can hear your case. If you need to inspect or obtain a copy of information in EEOC's file on the charge, please request it promptly in writing and provide your charge number (as shown on your Notice). While EEOC destroys charge files after a certain time, all charge files are kept for at least 6 months after our last action on the case. Therefore, if you file suit and want to review the charge file, **please make your review request within 6 months of this Notice**. (Before filing suit, any request should be made within the next 90 days.)

***IF YOU FILE SUIT, PLEASE SEND A COPY OF YOUR COURT COMPLAINT TO THIS OFFICE.***

August 31, 2020

Derrick Polite  
1686 Randall Avenue #4E  
Bronx, NY 10473  
(347) 280-0505

Case number: 10203954

EEOC  
New York District Office  
33 WhiteHall Street 5<sup>th</sup> Floor  
New York, NY 1004-2112

Dear EEOC:

Please allow this letter to be submitted for a request to review my case due to me not submitting witnesses to my initial claim filed before this above date.

Please refer to the your letter send to me under federal charge No. 16GB905263

My initial claim for reporting the events that took place with Ms. Keisha Williams and Lucie Toussaint was witnessed by, Ms. Woods who works in the Health Homes department under Ms. Kiesha Williams. On the day of the event, Ms. Woods witnessed the inappropriate touching Ms. Allision Maling performed on both, Ms. Keisha Williams and Ms. Lucie Toussaint. All of these parties were at the event in the conference room on the fifth floor at the agency. The hours of the event were from 12 to 2pm. I was not in attendance due to my monthly reports being due on that day to Public Health Solutions.

The reasons for my bringing forth Ms. Angela Caban who I supervised while at the agency, is because after reporting all of her behaviors to my immediate supervisor there were no further discussions or actions put in place to address her behavior. Ms. Caban has had the luxury to call two co-workers "niggers" while in the workplace. A social worker in the nursing home a "bitch" and no actions were taking from my immediate supervisor.

This can be confirmed by one of the co-workers who was called a "nigger", Mr. William Coleman, peer navigator in my department. Mr. Coleman has agreed to testify in the matter. Mr. Coleman's number is (929) 575-3526. In this case, there were two staff members called this name, Eric Iglesias, Driver for the Ryan White Program was called this name. The witness to this was Joann, who presently works in the Substance abuse department being transferred from the Health Homes Department under the supervision of Keisha Williams. Ms. Julia Cohen, Social Worker at WoodyCrest Nursing Home, (718) 414-1750. I am certain she will verify Ms. Caban's actions and behaviors while providing services in the nursing home.

With regards to age discrimination, I contend the former Clinical Director, Mr. Raymondo Fermin was paid more than me due to him being younger than me and starting the program. I made many attempts to find the reasons for this underpay in my case, but my findings lead me to believe this due to him and I both having the same credentialing and the reason for my underpayment each pay period. Moreover, I began to get confirmation on this matter in January 2019. This is the time I had to renew the contract

with Public Health Solutions, (PHS) and found out the exact salary everyone was receiving. My questions to my immediate supervisor, her supervisor, Ms. Darica Byne, and Human Resources began.

Simultaneously, On January 14, 2019 I was placed on a performance Improvement plan, (PIP). I agreed to the matter because at the time and up until this point, I had no staff no supervision. In such recent events, Ms. Caban hired October 24, 2018 and Lucie Toussiant hired October 9,, 2018 was new to the agency. Needless to say, upon Ms. Caban arrived to the agency and in a matter of two weeks' time, I received reports of her behavior from various co-workers, which includes and not limited to the Chief compliance office, Tabitha Gathney at the agency. Again while reporting these findings to my immediate supervisor, Allison Maling her behavior went unnoticed and unaddressed while being her immediate supervisor.

Moreover, the agency at the time of my release, attempted to deny me of my unemployment benefits. In this case, the agency requested a hearing to stop payments of unemployment. The state offered them two appointment dates in which they were not in attendance. Subsequently, I won my hearings indicating the reasons why I reported the incidents of the inappropriately touching by the two staff members and me filing the claim of follow up with the HR department and the Compliance department at VIP Community Services.

This brings me to my claim of retaliation.

As I signed the new contract in to place for the Ryan White Program at VIP Community Services. I continued by attempts to have my salary brought up to the proper level based on my license and my ability to develop in my role as the Clinical Director of the program. During this three month probation period and being monitored by the HR department and being supervised weekly by my immediate supervisor, there were no reports verbally or written indicating there was a concern with my behavior. I was informed during my supervision there was a improvements and I was receptive to the supervision offered me during this period.

This lead me to the event that took place at the agency named, "Lunch on Five" that was hosted and funded by myself being the Clinical Director for the Ryan White Program at VIP Community Services.

I contend, the reasons for me reporting the information to the Human Resources department and the Compliance Department, is because at the agency there were prior reports of my immediate supervisor, Alison Maling and this alleged behavior. I shared with HR I was uncomfortable holding this information because my role was not to determine whether it happened or not. I wanted to protect the agency for possible litigation. During this period, Ms. Keisha Williams was under investigation in the HR department due to her behavior with her immediate staff members. Moreover, the Social Worker, Anastacia who we called "Stacy" who worked in the Mental Health department under the direction of Alison Maling came to me and told me about reporting Alison and the meeting that took place with her, HR and the Aaron, the OOC of the agency. Stacy shared she would be leaving the agency because she was uncomfortable with how Alison makes her feel and was not pleased with the outcome following her meeting. Moreover, was upset because she requested a meeting with DebbieAnn, Eexecutive Director, and did not make herself available for the meeting.

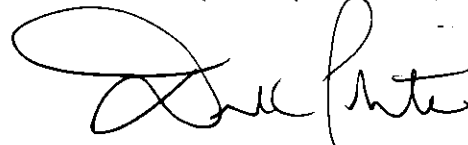
Lastly, my emails to Darica and Human Resources was warranted because during the new contract and signing into existence at the agency, my immediate supervisor indicated to me, "the decision is not left

up to me, this is not my pay grade". I requested permission to reach out to HR and Darcia and she stated, she was okay with that as long as she remained in the loop. Alison also stated, she mentioned it in her supervision but from January 2019 to August 2019 there were no written decisions offered me at that time.

In closing, I appealed to Darica, about some of Alison behaviors to me and the department via email titled, "This is a crisis" in the email I requested cultural sensitivity training for all due to the lack of feedback I was receiving from Alison while in supervision. I got the impression my immediate supervisor was not filtering the information I was given to her while in supervision to Darica. The take away from the email only lead Alison to finalize the treatment plan the Ryan White has been waiting on since the arrival of the new staff members. Ms. Caban left the agency during this period with unfinished work. Then two weeks before they relieved me of my duties, I ran into Darica in the hallway at the agency and she stated, they would calendar the underpayments to my payroll to bring me up to the appropriate salary. On August 28, 2019 I was let go at the agency.

I share all the above is accurate and true.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Derrick Polite", written in a cursive style.

Derrick Polite, LCSW-CASAC-T

9/15/2020